

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MICHAEL ASHBY,

Petitioner,

v.

ALICE PAYNE,

Respondent.

Case No. C03-5385RJB

ORDER DENYING ACCESS
TO A TYPEWRITER AS
MOOT AND GRANTING AN
EXTENSION OF TIME TO
FILE A RESPONSIVE BRIEF

This Habeas Corpus petition filed pursuant to 28 U.S.C. § 2254 has been re-referred to this court following an appeal. Before the court are two motions filed by petitioner (Dkt. # 57 and 58). Petitioner asks for a 90 day extension of time, until January 26th, 2007, to reply to respondent's pleadings in this case (Dkt. # 57). He also asks for access to his typewriter and claims portions of his responsive pleading are stored in the memory of that machine (Dkt. # 58).

The pleadings on file show that petitioner was placed in segregation for a number of infractions and for investigation. Inmates are not normally allowed access to a typewriter while in segregation. Counsel for respondents made arrangements for Mr. Ashby to gain access to his typewriter and written materials after he received Mr. Ashby's motions (Dkt. # 60, page 3). Mr.

1 Asby agrees he received the documents and was able to retrieve a copy of his legal work from the
2 memory of his typewriter (Dkt. # 66, page 4). The motion for access to materials and his typewriter
3 is therefore **DENIED AS MOOT**.

4 Counsel for respondent originally asserted Mr. Ashby was scheduled to be released from
5 segregation on October 28th, 2006 and opposed a 90 day continuance (Dkt. # 60, page 3). Since the
6 filing of that document counsel has learned that Mr. Ashby has been reclassified as a result of the
7 infractions and he will be held in segregation until he is transferred to another facility (Dkt. # 63).
8 Respondent no longer opposes the request for a 90 day extension of time to file a final brief.

9 The court is aware that when an inmate is transferred the inmate is allowed to take only a
10 limited number of boxes of legal materials. The court expects Mr. Ashby to take with him the
11 materials needed for this action. The motion for an extension of time until **January 26th, 2007** to file
12 a reply brief in this action is **GRANTED**.

13 The clerk is directed to send copies of this order to petitioner and counsel for respondent.

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15 DATED this 16th, day of November, 2006.

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17 /s/ J. Kelley Arnold
18 J. Kelley Arnold
19 United States Magistrate Judge
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